

For Senate Local Government Committee

Alan Nicholson - 459-8492 : Re: Bill #354

acquisition, construction, installation, equipment, maintenance, and operation of the airports or buildings and other facilities for the servicing of aircraft for the comfort and accommodation of air travelers and the purchase and sale of supplies, goods and commodities that are incident to the operation of its airport properties. . . (emphasis supplied.)

The powers for airport authorities do not set forth a purpose of developing land and buildings for private non-aeronautical commercial use. Further, Title 67, Chapter 11 does not mention airport authorities developing and leasing land and buildings for private non-aeronautical commercial use which are not related to the operation and use of an airport or air navigation facility. Section 67-11-206, MCA sets forth that supplementary powers are authorized for airport authorities that are incidental to the exercise of the general and special powers of airport authorities but no where in Title 67, Chapter 11 is the development and leasing of land and buildings for private uses not related to the operation and use of an airport or air navigation facility mentioned. Such use of airport authority property is not incidental to the general and special powers of airport authorities set forth in Title 67, Chapter 11.

Similarly, Section 67-11-202, MCA limits the adoption of rules by an airport authority to "such reasonable resolutions, rules, and orders as it shall deem necessary for the management, government, and use of any airport or air navigation facility owned by it or under its control . . ." (emphasis supplied.) Section 67-11-202, MCA does not allow for the adoption of rules for developing and leasing land and buildings for private non-aeronautical commercial uses which are not related to the operation and use of an airport or air navigation facility.

Section 67-11-105, MCA declares the functions of an airport authority for "the planning, acquisition, establishment, development, construction, improvement,

1 maintenance, equipment, operation, regulation, and protection of airports and air  
2 navigation facilities . . . and the exercise of any powers herein granted to authorities . . .  
3 are hereby declared to be public and government functions, exercised for a public  
4 purpose and matters of public necessity." (emphasis supplied.) The functions do not  
5 include the developing and leasing of land and buildings for private non-aeronautical  
6 commercial use which is not related to the operation and use of an airport or air  
7 navigation facility as a public purpose or a public necessity.  
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9 Even the financing statutes for an airport authority do not contemplate the  
10 development and leasing of land and buildings for private non-aeronautical commercial  
11 uses which are not related to the operation and use of an airport or air navigation facility.  
12 The authorized methods of raising revenues, other than the granting of operation and use  
13 privileges as set forth in Section 67-11-211, MCA, is by municipal or county tax levies,  
14 borrowing of monies or issuance of bonds, and receipt of federal and state monies. See,  
15 Sections 67-11-301, 67-11-302, 67-11-303 and Section 67-11-305, MCA. If, as the  
16 Airport Authority alleges in its Complaint, the City and County Commissions  
17 discontinued tax levies to the airport in 1993 and charged the Airport Authority with  
18 generating revenues so as to be self sufficient, (See, Complaint, ADV-08-1183, ¶5) the  
19 City and County did not have the authority to instruct the Airport Authority to develop  
20 and lease airport land and property for private non-aeronautical commercial uses not  
21 related to the operation and use of an airport or air navigation facility.  
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25 The above statutes support the plain meaning of Section 67-11-232, MCA in that  
26 a lease of airport property for anything other than the operation and use of the airport or  
27 air navigation facility is a disposal of airport property subject to county statutory  
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